

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MASSACHUSETTS**

**JANSSEN BIOTECH, INC. and
NEW YORK UNIVERSITY**

Plaintiffs,

v.

**CELLTRION HEALTHCARE CO., LTD.,
CELLTRION, INC., and
HOSPIRA, INC.**

Defendants.

Civil Action No. 1:15-cv-10698

**DEFENDANTS' MOTION FOR SUMMARY JUDGMENT OF INVALIDITY OF U.S.
PATENT NO. 6,284,471 FOR OBVIOUSNESS-TYPE DOUBLE PATENTING
BASED ON U.S. PATENT NO. 5,698,195 AND U.S. PATENT NO. 5,656,272**

Pursuant to Fed. R. Civ. P. 56 and Local Rule 56.1, Defendants Celltrion Healthcare Co., Ltd., Celltrion, Inc., and Hospira Inc. (collectively "Defendants"), hereby move this Court to enter summary judgment of invalidity of asserted claims 1, 3, and 5–7 of U.S. Patent No. 6,284,471 for obviousness-type double patenting and dismiss Count 3 of Plaintiffs' Complaint.¹ As set forth in Defendants' supporting Memorandum, there is no genuine issue of material fact, and judgment should be entered as a matter of law.

¹ On February 19, 2016, Defendants moved for summary judgment of invalidity of asserted claims 1, 3, and 5–7 of U.S. Patent No. 6,284,471 for obviousness-type double patenting over U.S. Patent Nos. (i) 6,790,444, (ii) 5,656,272 (the "'272 patent"), or (iii) 5,698,195 (the "'195 patent"). *See Dkt* 127–129. At the May 19, 2016 hearing, the Court granted leave for Defendants to file a separate motion for summary judgment based on Defendants' arguments regarding the '272 and '195 patents only (the "reexamination arguments"). On May 26, 2016, the parties submitted a proposed briefing schedule for, *inter alia*, summary judgment on the reexamination arguments. *Dkt* 159. The instant motion is Defendants' motion for summary judgment related to the reexamination arguments.

WHEREFORE, Defendants Celltrion Healthcare Co., Ltd., Celltrion, Inc., and Hospira Inc. respectfully request that this Court enter summary judgment of invalidity of asserted claims 1, 3, and 5–7 of U.S. Patent No. 6,284,471 for obviousness-type double patenting, dismiss Count 3 of Plaintiffs’ Complaint, and grant such other and further relief as this Court deems just.

Dated: June 3, 2016

Respectfully submitted,

Defendants Celltrion Healthcare Co., Ltd.,
Celltrion, Inc., and Hospira, Inc.

By: /s/Andrea L. Martin

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LR 7.1(a)(2) CERTIFICATION

I, Andrea L. Martin, hereby certify that Defendants' counsel has conferred with Plaintiffs' counsel and attempted in good faith to resolve or narrow the issue raised in this motion. No agreement has been reached. Plaintiffs have asserted that they will oppose this motion.

/s/Andrea L. Martin

Andrea L. Martin, Esq.

CERTIFICATE OF SERVICE

I, Andrea L. Martin, hereby certify that this document filed through the ECF system will be sent electronically to the registered participants as identified on the Notice of Electronic Filing (NEF) and paper copies will be sent to those indicated as non-registered participants on June 3, 2016.

/s/ Andrea L. Martin

Andrea L. Martin, Esq.